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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,758

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EXAMINER

KEE, FANNIE C

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,758	Applicant(s) YOSHINO ET AL.	
	Examiner FANNIE KEE	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 43-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20070723</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 43-46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

a. Claims 43-45 are directed to a different embodiment where the joint member includes a cylindrical male portion or a cylindrical female portion. The elected invention does not have either a cylindrical male or a cylindrical female portion.

b. Claim 46 is directed to a different embodiment where the inner and outer pipes have support members. The elected invention does not use support members (see Figure 10).

2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 43-46 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 7, 8, 10, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 7 recites “the inner and outer pipe are formed differently from each other and are joined to a joint member at respective end portions, where *two or more of the end portions* of the inner and the outer pipe and the joint member define plastically deforming means for joining the joint member to the inner and outer pipes”. The drawings, as seen in Figures 9-12, only show that one end portion of the inner pipe and one end portion of the outer pipe are joined to the joint member. Therefore, there cannot be more than two end portions. The specification does not speak to the elected embodiment having more than two end portions which are joined to the joint member. Therefore, the claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7, 8, 10, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites “wherein two or more of the end portions of the inner and outer pipe and the joint member define plastically deforming means for joining the joint member to the inner and outer pipes.” It is unclear what Applicant means by “two or more of the end portions of the inner and outer pipe and the joint member” as Applicant had previously defined that “the inner and the outer pipe ... are joined to a joint member at respective end portions.” It is not inherent that the inner or the outer pipe would have more than one end portion where they are joined to the outer pipe, therefore, how can there be “two or more” end portions? Is Applicant trying to say that the inner and outer pipes are completely encased such that each of their ends meets the joint member? This does not appear to be the case, however, as the Applicant’s disclosure does not appear to show this. Thus, Examiner is interpreting this to mean that there are only two end portions, one where the inner pipe meets the joint member, and one where the outer pipe meets the joint member. The claim must be amended in accordance with this interpretation.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 7, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Basham U.S. Patent No. 3,980,112.

With regard to claim 7, and as seen in Figure 9, Basham discloses a double pipe structure in which an inner pipe (36, 78A) for circulating fluid of high pressure is disposed in an outer pipe (38) for circulating fluid of low pressure and the inner and the outer pipe are formed differently from each other and are joined to a joint member (40A, 57A, 70A) at respective end portions, wherein two *or more* of the end portions of the inner and the outer pipe and the joint member define plastically deforming means for joining the joint member to the inner and outer pipes.

With regard to claim 8, and as seen in Figure 9, Basham discloses the joint member including a port (96A) connected to another pipe (93A), the plastically deforming means joining the inner pipe to the joint member by expanding an end portion of the inner pipe, and the outer pipe being joined to the joint member by contracting an end portion of the outer pipe.

With regard to claim 10, and as seen in Figure 9, Basham discloses a seal member (79A) being interposed in a joint portion of the joint member and the inner pipe or in a joint portion of the joint member and the outer pipe.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basham in view of Inaba U.S. Patent No. 4,732,414.

Basham discloses a double pipe structure with an inner pipe, an outer pipe and a joint member but does not disclose that the rigidity of the inner pipe is lower than the rigidity of the outer pipe. Inaba teaches that it would be obvious to have a double pipe structure where the inner and outer pipes would have different rigidities especially in the case where a combustible or poisonous gas is being carried.

Therefore, it would have been obvious to one of ordinary skill in the art to have modified the double pipe structure of Basham with the teaching of Inaba to create a double pipe structure

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that would be capable of carrying dangerous fluids and preventing any leaks to the outside atmosphere as suggested by Inaba (column 1, lines 24-31).

Response to Arguments

11. Applicant's arguments with respect to claims 7, 8, 10, and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fannie C. Kee whose telephone number is (571) 272-1820. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner, Art Unit 3679

/F. K./
Examiner, Art Unit 3679